

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

CHAPTER ~~2~~ 12.

INVENTORIES AND ACCOUNTS.

**Drafting note: Proposed Chapter 12 consolidates the provisions dealing with fiduciaries and the inventories, reports, and accounts that such fiduciaries must file with the commissioners of accounts.**

§ ~~26-12~~ 64.2-1200. Inventories to be filed with commissioners of accounts.

A. Every personal representative or curator shall, within four months after the date of the order conferring his authority, return to the commissioner of accounts an inventory of all the personal estate under his supervision and control, the decedent's interest in any multiple party account in any financial institution, all real estate over which he has the power of sale, and any other real estate that is an asset of the decedent's estate, whether or not situated in the Commonwealth. Every personal representative or curator shall also return to the commissioner of accounts an inventory of any such assets discovered thereafter as provided in subsection E.

B. Every guardian of an estate, conservator, or committee shall, within four months after the date of the order conferring his authority, return to the commissioner of accounts an inventory of the ward's personal estate ~~which is~~ under his supervision and control, the ward's real estate, the ward's legal or equitable ownership interest in any real or personal property that will pass to another at the ward's death by a means other than testate or intestate succession, and any periodic payments of money to which the ward is entitled. Every guardian of an estate, conservator, or committee shall also return to the commissioner of accounts an inventory of any such assets discovered thereafter as provided in subsection E.

C. Every trustee who qualifies in the circuit court clerk's office shall, within four months after the first date that any assets are received, return to the commissioner of accounts an inventory of the real and personal estate which is under the trustee's supervision and control. Every such trustee shall also return to the commissioner of accounts an inventory of any such assets received thereafter as provided in

subsection E. However, any trustee who is not required to account under the provisions of § ~~26-17.7~~ 64.2-1207 shall be exempted from the duty to file an inventory for ~~so~~ as long as there remains no duty to file annual accounts with the commissioner of accounts.

D. In listing property pursuant to subsection A, B, or C, the fiduciary shall place the market value on each item. The market value shall be determined as of (i) the date of death if a decedent's estate; (ii) the date assets are received by the trustee if a trust; or ~~as of~~ (iii) the date of qualification in all other cases. Any reasonable expense incurred in determining such values shall be allowable as a cost of the administration of the estate.

E. In the case of assets discovered or received by a fiduciary after filing an inventory, the further inventory required by subsections A, B, and C may be made by filing an amended inventory showing all assets of the estate or trust, by filing an additional inventory showing only the after-discovered assets or, with the permission of the commissioner of accounts, by showing the after-discovered assets on the estate's or trust's next regular accounting. The filing shall be made or the permission granted within four months after the discovery or receipt of the assets.

**Drafting note: Technical changes.**

§ ~~26-12.2~~ 64.2-1201. When inventory and settlement not required.

An inventory under § ~~26-12~~ 64.2-1200 or a settlement under § ~~26-17~~ 64.2-1106 shall not be required of a personal representative who qualifies for the sole purpose of bringing an action under § 8.01-50. However, if there ~~be~~ is no surviving relative designated as a beneficiary under § 8.01-53 and the circuit court directs that the funds recovered in such action be paid to the personal representative for distribution according to law, ~~such~~ the personal representative shall file the inventory required in § ~~26-12~~ 64.2-1200 and the statement required under § ~~26-17~~ 64.2-1106.

**Drafting note: Updated statutory reference to § 26-17 which was repealed in 1993 and replaced by existing § 26-17.3 (proposed § 64.2-1106). There are also technical changes.**

§ ~~26-12.3~~ 64.2-1202. Waiver of inventory and settlement for certain estates.

When a decedent's personal estate passing by testate or intestate succession does not exceed \$15,000 in value and an heir, beneficiary, or creditor whose claim exceeds the value of ~~such~~ the estate

seeks qualification, the clerk of the circuit court shall waive the inventory under §~~26-12~~ 64.2-1200 and the settlement under §~~26-17.3~~ 64.2-1106. This section shall not apply if the decedent died owning any real estate over which the person seeking qualification would have the power of sale.

**Drafting note: Technical changes.**

§~~26-12.4~~ 64.2-1203. Copies of inventories and accounts to be provided by personal representatives.

A. Every personal representative filing with the commissioner of accounts an inventory or account~~(,~~ including an affidavit of intent to file a statement in lieu of an account pursuant to §~~26-20.1~~) 64.2-1214, or any document making changes to either~~with the commissioner of accounts,~~ shall, on or before the date of such filing, send a copy thereof~~, which need not include copies of any supporting vouchers,~~ by first-class mail to~~such of~~ those persons to whom notice was given pursuant to subsections A and B of §~~64.1-122.2 as have~~ 64.2-208 and who requested the same from the personal representative in writing~~; provided, however, that. Copies sent pursuant to this subsection need not include copies of any supporting vouchers and such~~ copies need not be given to (i) persons who would take only as heirs at law in a case where all of the decedent's probate estate is disposed of by will, or (ii) beneficiaries whose gifts have been satisfied in full prior to such filing. A request for copies may be made to a personal representative at any time.~~It~~ The request may relate to one specific filing or to all filings to be made by the personal representative but it is not effective for filings made prior to its receipt by a personal representative.

B. No commissioner of accounts shall approve any personal representative's inventory or account (i) until~~twenty-one~~ 21 days have elapsed from the receipt~~thereof of such inventory or account~~ and (ii) unless the inventory or account contains a statement that any copies requested pursuant to this section have been mailed, and shows the names and addresses of the persons to whom they were mailed and the date of such mailing.

**Drafting note: Technical changes.**

§~~26-17.5~~ 64.2-1204. Personal representatives.

79           A. Within ~~sixteen~~ 16 months from the date of the qualification, personal representatives shall  
80 exhibit before the commissioner of accounts a statement of all money and other property ~~which such that~~  
81 the fiduciary has received, ~~or has~~ become chargeable with, or has disbursed within ~~twelve~~ 12 months  
82 from the date of qualification.

83           B. After the first account of the fiduciary has been filed and settled, the second and subsequent  
84 accounts for each succeeding ~~twelve-month~~ 12-month period shall be due within four months from the  
85 last day of the ~~twelve-month~~ 12-month period commencing on the terminal date of the preceding  
86 account unless the commissioner of accounts extends the period for filing upon reasonable cause.

87           C. Notwithstanding ~~the above~~ subsections A and B, a personal representative may file a first or  
88 subsequent account at an earlier date, and the commissioner of accounts or the circuit court may require  
89 the personal representative to file a first or subsequent account at an earlier date upon reasonable cause  
90 shown.

91           **Drafting note: Technical changes.**

92           § ~~26-17.4~~ 64.2-1205. Conservators, guardians of minors' estates, committees, trustees under §  
93 ~~37.2-1016~~ 64.2-2016, and receivers.

94           A. Within six months from the date of the qualification, conservators, guardians of minors'  
95 estates, committees, and trustees under § ~~37.2-1016~~ 64.2-2016 shall exhibit before the commissioner of  
96 accounts a statement of all money and other property ~~which such that the~~ fiduciary has received, ~~or has~~  
97 become chargeable with, or has disbursed within four months from the date of qualification.

98           B. After the first account of the fiduciary has been filed and settled, the second and subsequent  
99 accounts for each succeeding ~~twelve-month~~ 12-month period ~~will~~ shall be due within four months from  
100 the last day of the ~~twelve-month~~ 12-month period commencing on the terminal date of the preceding  
101 account unless the commissioner of accounts extends the period for filing upon reasonable cause.

102           C. For fiduciaries acting on behalf of Medicaid recipients, the fees charged by the commissioners  
103 of accounts under subsection A or B shall not exceed ~~twenty-five dollars~~ \$25.

104           **Drafting note: Technical changes.**

105           § ~~26-17.6~~ 64.2-1206. Testamentary trustees.

106 A. Except as provided ~~herein in subsections B and C, every~~ testamentary ~~trustee trustees~~ shall  
107 exhibit ~~such a~~ statement of all money and other property that the fiduciary has received, has become  
108 chargeable with, or has disbursed for each calendar year ~~to before~~ the commissioner of accounts of the  
109 circuit court where the order conferring his authority was entered on an annual basis commencing on or  
110 before May 1 of the calendar year following initial funding of the trust. Accounts for each calendar year  
111 thereafter ~~will~~ shall be filed on or before May 1 of the following calendar year.

112 B. All testamentary trustees who qualify prior to July 1, 1993, and elect to file accounts on a  
113 fiscal year basis may continue to file such accounts on an annual basis within four months after the end  
114 of the fiscal year selected.

115 C. Accountings for trusts, where one of the trustees ~~of which trust~~ is a corporation qualified  
116 under § 6.2-803, and by other testamentary trustees permitted by the Internal Revenue Code to file  
117 income tax returns on a fiscal year, may be filed on the basis of the trust fiscal year. The first account  
118 shall be filed within ~~sixteen~~ 16 months of the date on which the trust was initially funded.

119 **Drafting note: Technical changes.**

120 § ~~26-17.7~~ 64.2-1207. Testamentary trustees under a will waiving accounts; waiver where  
121 beneficiary also trustee.

122 A. For purposes of this section, the term "sole beneficiary" means a person who is (i) the only  
123 income beneficiary who is entitled to the principal, or where the remaining principal goes to the trustee's  
124 estate or (ii) the only income beneficiary and has either a general power of appointment over the  
125 principal or has a special power of appointment that is not limited to a particular class of persons.

126 B. If (i) the will of a decedent probated on or after July 1, 1993, contains a waiver of the  
127 obligations of the testamentary trustee nominated therein to account, or (ii) if the sole beneficiary of the  
128 trust also is a trustee, the trustee will not be required to file accounts with the commissioner of accounts.  
129 ~~For purposes of this section, a "sole beneficiary" means a person who is (a) the only income beneficiary~~  
130 ~~who is entitled to the principal, or the remaining principal goes to the trustee's estate or (b) the only~~  
131 ~~income beneficiary and has either a general power of appointment over the principal or has a special~~  
132 ~~power of appointment that is not limited to a particular class of persons.~~

133       Where the waiver is contained in the decedent's will, the trustee shall ~~(i)~~ within 90 days after  
134 qualification, notify in writing all beneficiaries of the trust, other than the trustee, who are adults ~~other~~  
135 ~~than the trustee~~, whose addresses are known to the trustee, and to whom income or principal of the trust  
136 could be currently distributed; provide each such beneficiary with a copy of the applicable provisions of  
137 the will; advise each such beneficiary of his right to require an annual accounting; and provide each such  
138 beneficiary with a copy of this ~~code~~ section and ~~(ii)~~ annually thereafter, provide each such beneficiary  
139 an accounting upon request. The trustee shall send to the commissioner of accounts a copy of the notice  
140 given to each beneficiary or, in the alternative, file a writing with the commissioner of accounts stating  
141 that the requirements of this section have been met. For receiving and filing such notice or writing, the  
142 ~~Commissioner~~ commissioner of accounts shall be allowed a fee not to exceed \$25.

143       ~~BC~~. Language substantially in form and effect as follows ~~will~~ shall be sufficient to constitute a  
144 waiver in the will of the decedent of the trustee's obligation to account: "I hereby direct that my  
145 trustee(s) shall not be required to file annual accounts with a court as otherwise required by Virginia  
146 law."

147       ~~ED~~. Notwithstanding a waiver in the will of the decedent or any prior consent of a beneficiary,  
148 any such adult beneficiary may, at any time during the administration of the trust, demand in a writing  
149 delivered to the trustee and to the commissioner of accounts that the trustee settle annually with the  
150 commissioner of accounts. Upon notice of such demand to the trustee and the commissioner of accounts,  
151 such trustee shall file an account with ~~such the~~ commissioner of accounts for a period acceptable to the  
152 commissioner of accounts as though there were no waiver by the testator. The beneficiary making such  
153 demand may later revoke his demand by a writing delivered to the trustee and the commissioner of  
154 accounts. The demand for settlement of the trustee's account before the commissioner of accounts may  
155 also be made by the personal representative of a deceased beneficiary whose estate is a beneficiary, an  
156 attorney in fact for a beneficiary, a guardian of an incapacitated beneficiary, a committee of a convict or  
157 insane beneficiary, the duly qualified guardian of a minor, or if none exists, a custodial parent of a minor  
158 or by any minor who has attained 14 years of age.

159 ~~DE~~. Notwithstanding the provisions of this section, any trustee under a will of a decedent  
160 containing the requisite waiver, whenever probated, shall be relieved of the duty to file an inventory or  
161 annual accounts with the commissioner of accounts if the trustee (i) obtains the written consent of all  
162 adult beneficiaries, other than the trustee, to whom income or principal of the trust could be currently  
163 distributed, after providing those beneficiaries with the documents and information specified in  
164 subsection ~~A B~~; and (ii) files those consents with the commissioner of accounts on or before the date on  
165 which the inventory or next required accounting would otherwise be due. For receiving and filing such  
166 written consent, the ~~Commissioner~~ commissioner of accounts shall be allowed a fee not to exceed \$25.

167 ~~EF~~. Notwithstanding the provisions of this section, any trustee under a will of a decedent  
168 probated on or after July 1, 2010, shall be relieved of the duty to file an inventory or annual accounts  
169 with the commissioner of accounts if the will of the decedent does not direct the filing of such inventory  
170 or accounts and the trustee (i) obtains the written consent of all adult beneficiaries, other than the trustee,  
171 to whom income or principal of the trust could be currently distributed, after providing those  
172 beneficiaries with the documents and information specified in subsection ~~A B~~; (ii) obtains the written  
173 consent of the representatives of all incapacitated beneficiaries, other than the trustee, to whom income  
174 or principal of the trust could be currently distributed, after providing those representatives with the  
175 documents and information specified in subsection ~~A B~~; and (iii) files those consents with the  
176 ~~Commissioner~~ commissioner of accounts on or before the date on which the inventory or next required  
177 accounting would otherwise be due. For receiving and filing such written consent, the ~~Commissioner~~  
178 commissioner of accounts shall be allowed a fee not to exceed \$25. The consent of an incapacitated  
179 beneficiary may be made by the personal representative of a deceased beneficiary whose estate is a  
180 beneficiary, an attorney in fact for a beneficiary, a guardian of an incapacitated beneficiary, a committee  
181 of a convict or insane beneficiary, the duly qualified guardian of a minor, or if none exists, a custodial  
182 parent of a minor who is not also the trustee. Language substantially in form and effect as follows ~~will~~  
183 shall be sufficient to constitute a direction in the will of the decedent of the trustee's obligation to  
184 account: "I hereby direct that my trustee(s) shall be required to file annual accounts with a court as  
185 otherwise required by Virginia law."

186 F. A circuit court having jurisdiction may order the filing of annual accounts if it deems such  
187 filings to be in the best interests of one or more beneficiaries of the trust.

188 **Drafting note: Technical changes.**

189 ~~§ 26-17.8.~~

190 **Drafting note: Repealed by Acts 1997, c. 842.**

191 ~~§ 26-12.1~~ 64.2-1208. Forms for inventories and accounts.

192 ~~Forms~~ The Office of the Executive Secretary of the Supreme Court shall provide to each circuit  
193 court clerk forms and instructions for the inventories required by ~~§ 26-12 shall be provided to each clerk~~  
194 ~~of court by the Office of the Executive Secretary of the Supreme Court~~ 64.2-1200 and forms and  
195 instructions for accounts. ~~Every~~ The clerk shall provide the appropriate forms to every fiduciary who  
196 qualifies in the clerk's office. An inventory filed pursuant to ~~§ 26-12 shall~~ 64.2-1200 or an account filed  
197 pursuant to § 64.2-1106 may be ~~filed~~ made on the ~~appropriate~~ form, ~~which shall be~~ provided to the  
198 fiduciary by the clerk of the court ~~granting administration of~~, on a computer-generated facsimile of the  
199 appropriate form, or in any other clear format.

200 **Drafting note: Language from the last two paragraphs of existing § 26-17.3, dealing with**  
201 **court forms, has been consolidated with the other court form provisions in this section. There are**  
202 **also technical changes.**

203 ~~§ 26-15~~ 64.2-1209. Accounts of sales under deeds of trust, ~~etc.~~

204 A. Within six months after the date of a sale made under any recorded deed of trust, mortgage, or  
205 assignment for benefit of creditors, ~~otherwise~~ other than under a decree, the trustee shall return an  
206 account of the sale to the commissioner of accounts of the circuit court ~~wherein~~ where the instrument  
207 was first recorded. ~~Promptly after~~ After recording any trustee's deed, the trustee shall promptly deliver to  
208 the commissioner of accounts a copy of the deed. The date of sale is the date specified in the notice of  
209 sale, or any postponement thereof, as required by subsection A of § 55-59.1. The commissioner of  
210 accounts shall state, settle, and report to the court an account of the transactions of ~~such the~~ trustee, ~~and~~  
211 ~~it~~ which shall be recorded as other fiduciary reports. Any trustee failing to comply with this section shall  
212 forfeit his commissions on such sale, unless such commissions are allowed by the court.



213 B. If the commissioner of accounts of the court ~~wherein~~ where an instrument was first recorded  
214 becomes aware that an account as required by this section has not been filed, the commissioner of  
215 accounts and the court shall proceed against the trustee ~~in like manner~~ and impose ~~like~~ penalties in the  
216 same manner as set forth in § ~~26-13~~ 64.2-1115, unless ~~such the~~ trustee is excused for sufficient reason. If  
217 after a deed of trust is given on land ~~lying located~~ in a county, and before a sale ~~thereunder~~ under the  
218 deed of trust, the land is taken within the limits of the incorporated city, the returns of the trustee and  
219 settlement of his accounts shall be before the commissioner of accounts of such city.

220 C. Whenever the commissioner of accounts reports to the court that a fiduciary, who is an  
221 attorney-at-law licensed to practice in the Commonwealth, has failed to make the required return within  
222 30 days after the date of service of a summons, the commissioner of accounts shall also mail a copy of  
223 his report to the Virginia State Bar.

224 **Drafting note: Technical changes.**

225 § ~~26-16~~ 64.2-1210. Recordation of inventories and accounts of sales.

226 Every inventory and account of sales returned under §§ ~~26-12~~ 64.2-1200 and ~~26-15~~ 64.2-1209  
227 shall be recorded by the clerk in ~~what are known as the~~ will ~~books,~~ book and indexed as required by §  
228 17.1-223.

229 **Drafting note: Technical changes.**

230 § ~~26-16.1.~~

231 **Drafting note: Repealed by Acts 1962, c. 111.**

232 §§ ~~26-17. through 26-17.2.~~

233 **Drafting note: Repealed by Acts 1993, c. 689.**

234 § ~~26-17.9~~ 64.2-1211. Vouchers and statement of assets on hand; direct payments to account;  
235 vouchers for IRS payments.

236 A. Vouchers for disbursements and a statement of cash on hand or in a bank and all investments  
237 held at the terminal date of the account shall also be exhibited with each account. A voucher shall not be  
238 required when a disbursement, not exceeding the value of \$25, is made to a legatee under the authority  
239 of a will and such legatee refuses to take the possession or fails to present the disbursement check to a

bank for payment. In such case the fiduciary shall file an affidavit stating that he has made a good faith effort to comply with the terms of the will and the provisions of this section.

B. A fiduciary may make payment to a beneficiary by transfer to the beneficiary's bank account with the fiduciary or by payment to an account with another bank through an automated clearinghouse, wire transfer, or similar mechanism, if the beneficiary has consented in writing to such method of payment. In either case, a record or statement of the bank making such payment shall be a sufficient voucher for the purpose of subsection A.

C. In the case of payments to the Internal Revenue Service for income tax estimates or any other payments required or permitted to be made by wire transfer or similar mechanism, ~~the fiduciary shall not be required to exhibit a receipt for such payment. A~~ a record or statement of the bank making such payment shall be a sufficient voucher for the purpose of subsection A.

D. In the case of payments of debts, taxes, and expenses, a corporate fiduciary's affidavit signed by an officer familiar with the facts that describes each payment by date, payee, purpose, and amount shall be a sufficient voucher for the purpose of subsection A. However, the commissioner of accounts may require that the corporate fiduciary exhibit a voucher for a specific payment.

E. In the event a fiduciary seeks to use a check as a voucher or receipt ~~hereunder~~ under this section, (i) a copy of both sides of the check shall be sufficient or (ii) a copy of the front side of the check, and the periodic statement, from the financial institution showing the check number and amount that coincides with the copy shall be sufficient, provided ~~such that (a) the~~ copy was made in the regular course of business in accordance with the admissibility requirements of § 8.01-391, and ~~provided further, that (b) the~~ commissioner of accounts may require a fiduciary to exhibit a proper voucher for a specific payment or for distributions to beneficiaries or distributees. However, the commissioner of accounts shall not require a fiduciary to exhibit an original check as a voucher ~~hereunder~~ under this subsection.

**Drafting note: Technical changes.**

~~§ 26-17.10 64.2-1212. Miscellaneous~~ Report to circuit court; death of fiduciary; fiduciary for recipient of federal benefits.

267 A. The commissioner of accounts shall state, settle, and report to the circuit court an account of  
268 the transactions of ~~such a~~ fiduciary, as provided by law. Every ~~such~~ fiduciary shall also, at the request of  
269 the commissioner of accounts, exhibit (i) the securities held by the fiduciary together with a statement  
270 from every bank in which cash is held at the terminal date of the account and (ii) proof that all premiums  
271 due upon any required surety bond have been paid.

272 B. If a personal representative of a decedent's estate, a testamentary trustee, a guardian, a  
273 conservator, or a committee dies prior to the filing and settlement of ~~such the~~ fiduciary's account, the  
274 personal representative of the fiduciary's estate shall have the obligation to make the requisite filing and  
275 settlement through the date of death unless any successor fiduciary makes the requisite filing.

276 C. For fiduciaries acting on behalf of a recipient of social security, supplemental security  
277 income, or veteran's or other federal benefits ~~recipients~~, no accounting to the commissioner of accounts  
278 shall be required of benefits paid to a designated representative on behalf of the recipient if the  
279 representative is otherwise required to account for such benefits. However, any ~~such~~ fiduciary otherwise  
280 required to make an accounting to the commissioner of accounts shall disclose ~~thereon in the account~~ the  
281 total amount of such benefits received during the accounting period for which no incremental fee for  
282 such benefits shall be charged by the commissioner of accounts.

283 **Drafting note: Catchline update to reflect actual provisions of the section. There are also**  
284 **technical changes.**

285 § ~~26-20~~ 64.2-1213. Exhibition of accounts when sum does not exceed certain amount.

286 If the principal sum held by any fiduciary mentioned in § ~~26-17.3~~ 64.2-1106 does not exceed  
287 \$15,000, ~~such the~~ fiduciary shall exhibit his accounts before the commissioner of accounts within the  
288 appropriate time period provided in §§ ~~26-17.4~~ 64.2-1205 through ~~26-17.7, but thereafter~~ 64.2-1207.  
289 Thereafter, the commissioner of accounts may permit the fiduciary to exhibit his accounts every three  
290 years, which permission may be revoked by the commissioner of accounts on his own motion or upon  
291 request of any interested person. The provisions of this section shall apply to any case in which the  
292 corpus of the estate in the hands of the fiduciary has been reduced to \$15,000 or less although it

formerly exceeded that amount. Any fiduciary exhibiting his accounts in accordance with the provisions of this section shall be entitled to compensation for his services.

**Drafting note: Technical changes.**

§ ~~26-20.1~~ 64.2-1214. Statement in lieu of settlement of accounts by personal ~~representative or~~ representatives in certain circumstances.

A. For the purposes of this section, the term "residuary beneficiary" shall not include the trustee of a trust that receives a residuary gift under a decedent's will.

B. If all distributees of a decedent's estate or all residuary beneficiaries under a decedent's will are personal representatives of that decedent's estate, whether serving alone or with ~~one or more~~ others who are not distributees or residuary beneficiaries, the personal representatives may, in lieu of the settlement of accounts required by § ~~26-17.5~~ 64.2-1204, file with the commissioner of accounts a statement under oath that (i) all known charges against the estate have been paid, ~~that~~ (ii) six months have elapsed since the personal representatives qualified in the clerk's office, and ~~that~~ (iii) the residue of the estate has been delivered to the distributees or beneficiaries. In the case of a residuary beneficiary, the statement shall include an itemized listing, substantiated and accompanied by proper vouchers, showing satisfaction of all other bequests in the will. The statement shall be considered an account stated and subject to all the provisions of this chapter applicable to accounts stated. ~~For the purposes of this section, the term "residuary beneficiary" shall not include the trustee of a trust that receives a residuary gift under a decedent's will.~~

B. If the statement authorized by this section cannot be filed with the commissioner of accounts within the time prescribed by § ~~26-17.5~~ 64.2-1204, the personal representatives, within that time, shall file either (i) an interim account or (ii) a written notice under oath that the personal representatives intend to file a statement in lieu of the settlement of accounts when all ~~requisites~~ requirements of this section have been met, which shall include an explanation of why such a statement cannot presently be filed. Second and subsequent interim accounts or notices of intent to file shall be filed annually until the statement in lieu of the settlement of accounts is filed. A commissioner of accounts who determines that the reasons offered for not presently filing a statement in lieu of settlement are not sufficient, whether in

a first or subsequent written notice, may require the personal representatives to file an interim account in addition to the notice. The filing of an interim account shall not preclude the filing of a subsequent statement.

C. For examining and approving a statement and vouchers or a written notice under the provisions of this section, the commissioner of accounts shall be allowed a fee not to exceed ~~seventy-five dollars~~ \$75.

**Drafting note: Technical changes.**

§ ~~26-21~~ 64.2-1215. Certification and recording of accounts settled in a judicial proceeding.

When the account of any fiduciary is settled in a judicial proceeding, it shall be the duty of the clerk of the circuit court in which ~~such cause is the judicial proceeding was held~~, as soon as may be practicable after entry of a final order ~~or decree therein~~, to certify to the clerk of the circuit court ~~wherein in which~~ the fiduciary qualified, a copy of ~~such the~~ account so far as the ~~same account~~ has been confirmed, with a memorandum at the foot ~~thereof of the copy~~ stating the style of the suit and the date of ~~such the~~ final order ~~or decree~~. The account and memorandum so certified shall be recorded by the clerk to whom it is certified, in the book in which accounts of fiduciaries are required to be recorded under § ~~26-35, and if~~ 64.2-1114. If in a proceeding subsequent to ~~such the entry of the~~ final order ~~or decree, by appeal or otherwise~~, the account ~~shall be~~ is reformed or altered, a copy of such reformed or altered account shall ~~in like manner~~ be certified and recorded, together with a memorandum stating the style of the suit and the date of the order or decree of confirmation, in the same manner as the final order. When ~~the clerk of judicial proceeding is conducted in~~ the same court in which ~~the cause may be is also clerk of the court in which or before whom~~ the fiduciary qualified, ~~he~~ the clerk of such court shall make the memoranda and recordations required by this section, and shall for such purpose use the original papers. For making any copy under this section, the clerk shall be entitled to the fees prescribed in like cases, and for recording such account of the fiduciary he shall be entitled to the fees allowed for recording accounts settled ex parte. The fees for copying and recording shall be paid as the court, in which the ~~cause may be, or the judge thereof,~~ judicial proceeding was held shall direct.

**Drafting note: Technical changes.**

347 ~~§ 26-22.~~

348 **Drafting note: Repealed by Acts 1992, c. 395.**

349 ~~§ 26-25 64.2-1216.~~ Settlement of fiduciary's accounts by commissioner in chancery; report to  
350 commissioner of accounts.

351 On the motion of any fiduciary having charge of an estate, ~~or of any interested person interested~~  
352 ~~therein~~, the circuit court, ~~or the judge thereof in vacation~~, may require ~~any of its commissioners a~~  
353 commissioner in chancery to settle the accounts of ~~such the~~ fiduciary; ~~and. In addition, whenever~~ a court  
354 ~~deems it proper, it~~ may require ~~any one or more of its commissioners a commissioner~~ in chancery to  
355 settle the accounts of any of the fiduciaries mentioned in ~~the preceding sections of~~ this chapter. A  
356 commissioner in chancery making a settlement under such order of a court shall, ~~within thirty days,~~  
357 report the fact and date of ~~such the~~ settlement to the commissioner of accounts within 30 days, who shall  
358 make an entry of the same in his record book.

359 **Drafting note: Technical changes.**

360 ~~§ 26-37 64.2-1217.~~ Disposition of papers relating to estates.

361 ~~All A.~~ The circuit court or the clerk at the time of the confirmation of an account shall return all  
362 inventories and original accounts of sales filed with the clerk of the circuit court as required by §§ ~~26-14~~  
363 64.2-1105 and ~~26-16 64.2-1210~~, all reports filed with the clerk under § ~~26-35 64.2-1114~~ when the ~~same~~  
364 reports have been actually recorded by the clerk, compared, indexed, and confirmed as ~~respectively~~  
365 required by law, and all vouchers or other evidence filed with the commissioner of accounts, the court or  
366 ~~the clerk at the time of confirmation of an account and not required as evidence of any further matter of~~  
367 ~~inquiry pending before the court or the commissioner, shall~~ upon request made at the time of such filing  
368 ~~the same~~, or in the discretion of the commissioner of accounts if no request is made, ~~be returned by the~~  
369 ~~commissioner or by the clerk of the court~~ to the fiduciary or other person who filed ~~the same such~~  
370 inventories, accounts, reports, vouchers, or other evidence; provided, however, that such inventories,  
371 accounts, reports, vouchers, or other evidence is not required as evidence of any further matter of  
372 inquiry pending before the court or the commissioner of accounts.

373        B. The clerk of court may destroy any papers mentioned in ~~the first paragraph of this section~~  
374        subsection A or any other papers relating to estates, when the matter concerned has been closed with a  
375        final settlement for more than three years and appropriate recordations have been made. However,  
376        nothing in this section shall apply to original documents recorded by binding. If recordation is done by  
377        facsimile or microfilm reproduction process, such papers may be destroyed if the return ~~thereof~~ of such  
378        papers was not requested at the time of filing for recordation.

379        C. The commissioner of accounts may destroy any papers mentioned in ~~the first paragraph of this~~  
380        ~~section~~ subsection A or any other papers relating to estates when the matter concerned has been closed  
381        with a confirmed final accounting for more than one year.

382        **Drafting note: Technical changes.**